

Filed for intro on 01/21/95
House Bill _____
By _____

Senate Bill No.SB0009
By Kyle, Jr.

AN ACT to amend Tennessee Code Annotated, Section 41-2-128,
relative to eligibility of certain persons for participation in
the work release program.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 41-2-128(c) is amended by deleting
all of the language contained therein and substituting instead the following:

(c)(1) Notwithstanding the provisions of this section, Section 55-10-403(a)(1) or Section
55-50-504(a)(2) to the contrary, the judge may sentence persons convicted of a second
violation of Section 55-10-401 or Section 55-50-504(a)(2), to the work release program
established pursuant to this section if, prior to doing so, the following conditions have been met:

(A) An investigative report is completed and considered by the judge with such
report confirming the defendant's employment and the employer's willingness to participate in
the work release program, including, but not limited to, reports to monitor the defendant's
attendance, performance, and response to treatment;

(B) A plan acceptable to the judge is established to provide for the monitoring of
the defendant's whereabouts while at or on the defendant's job; and

(C) The defendant agrees to defray, to the best of the defendant's ability, the cost of incarceration and treatment.

(2) No person convicted of a second violation of Section 55-10-401 that results in personal injury to, or the death of, another shall be sentenced to such work release program.

(3) As a condition to participation in such work release program, the defendant must agree to be screened, at least daily, for the purpose of determining whether such person has consumed alcohol or illegal drugs.

(4) A defendant permitted to participate in a work release program pursuant to this section shall not be permitted to operate a motor vehicle while participating in such program and shall at all times when not actually at the place of employment or while being transported to or from such place of employment remain in actual incarceration as provided by law.

(5)

(A) The judge shall, at the time of sentencing, cause the sentencing order to reflect the defendant's cost of incarceration and treatment and shall affix to such order, taking into consideration the defendant's ability to pay, the time and manner in which such costs are to be paid. The court shall enter the necessary orders requiring that the costs of incarceration and treatment be paid or secured including, but not limited to, orders of probation which include as a condition thereof the payment of costs covered by this subdivision.

(B) When a defendant alleges that such defendant is unable to pay pursuant to the terms set out by the order, such defendant may petition the court for modification as to the terms of payment. When it is determined that defendant is unable to pay the entirety of the costs covered by this subdivision in the time and manner imposed by the court, any costs imposed against the defendant shall be pursuant to a schedule promulgated by the chief administrative officer of the county, or such officer's designee, with such schedule to be based upon the defendant's ability to pay the same.

(C) In promulgating the schedule governing costs and the amount thereof to be paid by the defendant, the chief administrative officer of the county, or such officer's designee,

shall consider the defendant's ability to pay and the disbursement schedule set forth in Section 41-2-129, and shall incorporate payments ordered herein into such schedule.

(D) In no event shall a person be denied access to this program or be denied discharge from incarceration as a result of that person's inability to pay.

(6) A county which permits a person convicted of a second offense violation of Section 55-10-401 to be sentenced to a work release program shall maintain records sufficient to allow an annual determination of whether such participation in any way diminishes the effectiveness of Section 55-10-403(a)(1).

(7) The county shall file annually the results of such report with the secretary of state no later than March 1 of the following year for dissemination to the general assembly and appropriate state and local agencies.

(8) The provisions of this subsection shall become effective in any county upon the adoption of a resolution by a two-thirds (2/3) vote of the legislative body of such county.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.